

State of Illinois)
County of Cook)

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KENNETH HARCK,)
)
)
<i>Plaintiff,</i>)
)
)
v.)
)
)
MILESTONE AUCTIONS, LLC and)
ROBERT FERGUSON)
)
)
<i>Defendants.</i>)

VERIFIED COMPLAINT

Kenneth Harck in complaining against defendants states as follows:

PARTIES

1. Kenneth Harck is a citizen of the State of Illinois and resides at 245 Clinton Avenue, Oak Park, Illinois. Plaintiff is a collector of circus and wild west memorabilia and owns an extensive and valuable collection of circus posters and circus photographs and wild west posters.
2. Milestone LLC is a citizen of the State of Ohio. Milestone Auctions LLC is a domestic limited liability company incorporated in the state of Ohio with its principle place of business at 3860 Ben Hur Avenue, Willoughby Ohio. Milestone Auctions LLC is an auction house and offers for sale, *inter alia*, circus collectibles.
3. Robert Ferguson is a citizen of the State of Michigan and resides at 730 South State Avenue, Alpena, Michigan, 49707.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 based on diversity of citizenship. The amount in controversy exceeds \$75,000 exclusive of interest and costs. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. §1391. The Court also has subject matter jurisdiction pursuant to the National Stolen Property Act, 18 U.S.C. §§2314&2315 which prohibit the possession of stolen goods of the value of \$5,000 or more which have been transported in interstate commerce.

NATURE OF THE ACTION

5. This is an action to recover a historically significant American collection of over 500 circus and wild west posters, including original art that was stolen from plaintiff.

FACTUAL ALLEGATIONS

6. Plaintiff is a nationally renowned expert on the American circus. Plaintiff has amassed a large and valuable collection of circus memorabilia. Among Plaintiffs collection are hundreds of antique circus posters, circus photographs, wild west posters and original art pieces.

7. On July 23, 2017 plaintiff was hospitalized with a critical illness. Plaintiff remained hospitalized until September 23, 2017. Upon his recovery plaintiff returned to his home and discovered that approximately 500 antique circus posters, 40 wild west posters, 2 priceless original art pieces and 100 circus photographs had been stolen from his home. The value of the stolen collection is between \$1.7 million and \$2 million dollars.

8. Plaintiff subsequently learned that defendant Milestone Auctions LLC was offering some of the stolen wild west posters for sale at auction.

9. On information and belief, defendant Robert Ferguson possessed some of plaintiff's stolen collection and consigned artwork stolen from plaintiff to defendant Milestone Auctions LLC for sale at auction.

10. Plaintiff is unaware of the identity of the person or persons who stole his antique circus posters, circus photographs, wild west posters and original art, however, on information and belief, defendants Milestone Auctions LLC and Robert Ferguson are in possession of some of plaintiffs stolen posters and know from whom they obtained the posters.

Count 1 – Replevin

11. The Illinois replevin statute, 735 ILCS 5/19-101 allows plaintiff to recover goods wrongfully detained by defendant.

12. Defendants are, upon information and belief, in possession of valuable wild west posters which were stolen from plaintiff.

13. Defendants have no right to possession of the plaintiff's stolen property and plaintiff's right to possession of the stolen wild west posters is superior to defendants'.

14. Plaintiff is the owner of the wild west posters which are being wrongfully detained by defendants. Plaintiff's wild west posters have not been taken for any tax, assessment, or fine levied by virtue of any law of this State, against the property of plaintiff, or against him individually, nor seized under any lawful process against the goods and chattels of plaintiff subject to such lawful process, nor held by virtue of any order for replevin against plaintiff.

Wherefore, plaintiff requests that this court enter an order compelling defendants to return the wild west posters to plaintiff and to identify the person or persons from whom they obtained plaintiff's wild west posters, for damages for their wrongful detention and for such further relief as the court deems just and appropriate.

Count II – Conversion

15. Plaintiff realleges and incorporates by reference paragraphs 1-14 as if fully set forth herein
16. Plaintiff has an absolute and unconditional right to the stolen wild west and circus posters in possession of defendants.
17. Defendants have wrongfully and without authorization assumed possession and control of wild west and circus posters stolen from plaintiff despite plaintiff's demand for return of the stolen circus posters.

Wherefore, plaintiff requests that this court enter an order compelling defendants to return the wild west and circus posters to plaintiff and to identify the person or persons from whom they obtained plaintiff's wild west and circus posters, for damages for their wrongful detention and for such further relief as the court deems just and appropriate.

Count III – Civil Conspiracy

18. Plaintiff realleges and incorporates by reference paragraphs 1-14 as if fully set forth herein.
19. Defendants have wrongfully retained control of plaintiff's stolen wild west and circus posters and have refused to disclose to plaintiff how they came into possession of the stolen artwork.
20. Defendants' conduct constitutes a civil conspiracy along with the unknown thieves of plaintiff's property.

Wherefore, plaintiff requests that this court enter an order compelling defendants to return the wild west and circus posters to plaintiff and to identify the person or persons from whom they obtained plaintiff's wild west and circus posters, for damages for their wrongful detention and for such further relief as the court deems just and appropriate.

Count IV – ITSP

21. Plaintiff realleges and incorporates by reference paragraphs 1-14 as if fully set forth herein.

22. Plaintiff's stolen wild west and circus posters were transported in interstate commerce from plaintiff's home in Illinois to Michigan, Ohio and, on information and belief, other states.

Wherefore, plaintiff requests that this court enter an order compelling defendants to return the wild west and circus posters to plaintiff and to identify the person or persons from whom they obtained plaintiff's wild west and circus posters, for damages for their wrongful detention and for such further relief as the court deems just and appropriate.

Respectfully submitted,

/s/ Richard C. Leng
Richard C. Leng
One of Plaintiff's Attorneys

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State of Illinois)
County of Cook)

Verification

Kenneth Harck, plaintiff herein, being first duly sworn on oath states as follows: Plaintiff has reviewed the complaint and, regarding the allegations of which he has personal knowledge, the plaintiff knows or believes them to be true. Regarding the allegations of which the plaintiff does not have personal knowledge, the plaintiff believes them to be true based on specified information and documents.

Signed Kenneth Harck
Kenneth Harck

Subscribed and sworn to before me
this 14 day of October, 2018

Catherine H. Baran
Notary Public

